

Tuesday – April 13, 2010 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Brownie W. Newman; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilwoman Esther E. Manheimer; Councilman William A. Russell Jr.; Councilman Gordon D. Smith; City Manager Gary W. Jackson; City Attorney Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: None

**PLEDGE OF ALLEGIANCE**

The Webelos Den of Cub Scout Pack 72 led City Council in the Pledge of Allegiance.

**INVOCATION**

Mayor Bellamy gave the invocation.

**I. PROCLAMATIONS:**

**A. EMPLOYEE RECOGNITIONS**

City Manager Jackson recognized (1) Dawa Hitch, Tim Jennings, Kevin Haughinberry, Dwain Taylor, Tony Chapman, Bernard McDowell, Battalion Chief John Presley, Captain Robert Singleton, Engineer Andy Randalls, Sr. Firefighter Carla Brank, Firefighter John Robertson, Captain Eric Velez, Captain Mike Russell, Lt. Wallace Welch, Lt. Jamee Crawford, Sgt. Stony Gonce, Megan Young, Jane Barbee, Mike Smith, Scott Sutton, Dwight Danner, Director Cathey Trimnal, Rick Thomas and Michael Kyle as key personnel that went above and beyond their job descriptions to deliver an exceptional level of public service during the major snow storm on December 18, 2009; (2) Assistant Fire Chief David McFee for the designation of "Chief Fire Officer" from the Commission on Professional Credentialing; (3) Athletics Program Supervisor Mark Halstead for receiving the Recreation and Parks Award by the N.C. Adult Soccer Association; and (4) Chief Financial Officer Ben Durant who is leaving Asheville after 12 years of service.

On behalf of City Council, Mayor Bellamy thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

**II. CONSENT AGENDA:**

At staff's request, Mayor Bellamy pulled Consent Agenda Item "J".

At the request of Mayor Bellamy, Consent Agenda Item "D" was removed from the Consent Agenda for an individual vote.

**A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 23, 2010**

**B. RESOLUTION NO. 10-90 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO ACCEPT STATE FUNDS FOR THE OPERATING EXPENSES OF THE TRANSIT SERVICE ROUTE TO AND FROM THE TOWN OF BLACK MOUNTAIN**

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to accept State Funds for the operating expenses of the transit service route to and from the Town of Black Mountain.

The NCDOT has agreed to contribute funds to be used for the operating expenses of transit service to and from Black Mountain and the Asheville Transit System has agreed to operate the subject service.

Route # 28 and the Black Mountain Trailblazer Route were established in 2002 following a collaborative effort between NCDOT and the Land-of-Sky Regional Council as a result of a number of the region's counties and municipalities who passed resolutions in 2000 asserting the need for fixed route bus service connecting urban areas not in close proximity to each other.

The subject service operates seven times a day, six days a week. All funding is provided by the State of North Carolina (maximum of \$306,146), the Town of Black Mountain (\$18,500), Mountain Mobility (\$5,500), and Fare Box Revenue (\$23,348). The total budgeted cost for Fiscal Year 2009-10 is \$353,494 and the total cost also covers the pass-through funding to Mountain Mobility for the operation of their route in Black Mountain. These funds are programmed in the current transit operating budget, with no City funds being spent. Ridership on the subject route during FY 2008-09 was 55,038, up 30% compared to the prior year.

NCDOT is funding the route from November 1, 2009, to June 30, 2010, and has recently notified the City of Asheville that future funding for this route might be discontinued beginning next fiscal year. NCDOT has expressed concerns related to compliance with Intercity routes as defined in FTA Circular 9040.1F Section 5311 (f). The City of Asheville has made all efforts to address NCDOT concerns and to comply with such definitions. Following those criteria, the route was redesigned, including stops, scheduling, and fare structure, but proximity to the Town of Black Mountain makes it ineligible for Intercity funding (The Town of Black Mountain is in the same urbanized area as the City of Asheville).

City staff is currently exploring alternatives to be able to continue the route next fiscal year, but due to the level of funding, the route may suffer drastic service cuts or disappear completely.

This action complies with (1) the 2025 City Development Plan by helping to develop a transit system that is capable of meeting the needs of all residents and visitors to the region; (2) the current Strategic Plan by helping to establish and improve a multi-modal transportation plan including sidewalks, bicycle paths, traffic signal pre-emption, transit, and other system improvements; and (3) the Green Focus Area to "Establish a multi-modal transportation plan including sidewalks, bike paths, signal preemption, transit and other system improvements".

The Transit Commission supports the subject action.

Pro:

- Increased mobility for the citizens of Asheville both within and outside the city.

Con:

- There are no disadvantages to the City of Asheville.

The City of Asheville will receive State Funds in the maximum amount of \$306,146 and other funds in the amount of 47,348 for a total of \$353,494 to cover operating expenses of the

transit service route to and from the Town of Black Mountain. These funds are already programmed in the current transit operating budget, with no City of Asheville funds being spent. As such, no budget amendment is required.

City staff recommends adoption of the resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation for the acceptance of funds to be expended for service to and from Black Mountain.

Director of Transportation Ken Putnam responded to Mayor Bellamy's inquires regarding Warren Wilson funding for this route.

Mr. Putnam said that the funding is in danger on July 1 and they will be meeting with the N.C. Dept. of Transportation later this week.

It was the consensus of Council, at Mayor Bellamy's request, to send a letter to our federal legislators about Asheville not being recognized as an intercity route as it will affect the bigger funding issue of transit.

#### **RESOLUTION BOOK NO. 33 – PAGE 1**

#### **C. RESOLUTION NO. 10-91 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE NATIONAL POLLUTION PREVENTION DISCHARGE SYSTEM PHASE II RENEWAL APPLICATION**

Summary: The consideration of a resolution authorizing the City Manager to sign the National Pollution Prevention Discharge System (NPDES) Phase II Renewal Application in order to comply with the Environmental Protection Agency (EPA) Federal Non-Funded Mandate.

In 1998, EPA adopted a rule known as the NPDES Stormwater Phase II rule. This rule applies to all municipalities with a population less than 100,000 that own or operate a Municipal Separate Storm Sewer System. The City currently is a Phase II compliant city and must renew this permit. The permit is renewed every 5 years.

The NPDES Phase II requirements include continuing to implement the following: Public Education and Outreach, Public Participation and Involvement, Illicit Discharge Detection and Elimination, Construction Site Runoff Control, Post Construction Runoff Control and Pollution Prevention and Good Housekeeping measures.

This action aligns with the Green and Sustainable goal from Council's strategic plan, in that it (1) Provides environmental sustainability by protecting water quality in our area; (2) Provides protection to downstream property owners by regulating the water quantity that discharges from developments; and (3) Provides community outreach and education related to stormwater quality for the community.

#### Pros:

- The City will satisfy all current State and Federal minimum requirements for participation in the NPDES Phase II program
- The City is already a Phase II city and will continue to promote water quality
- The City will promote water quality in our area

#### Con:

- The NPDES program is a non-funded federal mandate to the City.

This program is funded through the stormwater enterprise fund. The current cost to meet the requirements of this program is approximately \$1.62 million. No additional impact is expected by the renewal.

City staff recommends that City Council adopt the resolution authorizing the City Manager to sign the National Pollution Discharge Elimination System Phase II Renewal Permit Application and any other paperwork necessary to comply with the EPA Federal Non-Funded Mandate.

**RESOLUTION BOOK NO. 33 – PAGE 2**

**D. RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE DOWNTOWN AFTER 5 EVENTS ON MAY 21, JUNE 18, JULY 16, AUGUST 20 AND SEPTEMBER 17, 2010**

**RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE ALL GO WEST FESTIVAL ON APRIL 24, 2010**

**RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE ASHEVILLE EARTH DAY EVENT ON APRIL 17, 2010**

These items were removed from the Consent Agenda for individual votes.

**E. RESOLUTION NO. 10-95 - RESOLUTION AUTHORIZING THE MAYOR TO RENEW THE JOINT COOPERATION AGREEMENT WITH THE ASHEVILLE REGIONAL HOUSING CONSORTIUM**

Summary: The consideration of a resolution authorizing the Mayor of the City of Asheville to renew the Joint Cooperation Agreement with the Asheville Regional Housing Consortium.

Recertification of the Consortium is necessary to access US Department of Housing and Urban Development HOME Partnership Act funds. The City of Asheville receives approximately \$1.4 million annually from this source. These funds directly support affordable housing projects in Asheville and the four county Consortium, and leverage an average of \$9 of other funds for every \$1 of HOME funds invested.

**A. Asheville Regional Housing Consortium**

A consortium of area local governments is entitled to receive funding from the U.S. Department of Housing and Urban Development under the HOME Investment Partnerships Act that they would be unqualified to receive individually. A cooperative regional approach to providing housing avoids duplication of effort and promotes a more effective delivery of services.

In 1993, the City of Asheville and other units of local governments in Buncombe, Henderson, Madison, and Transylvania Counties formed the Asheville Regional Housing Consortium, enabling the City of Asheville to receive and administer HOME funds on behalf of the Consortium.

**B. Recertification**

In order to the Asheville Regional Housing Consortium to continue to receive federal funding, The U.S. Department of Housing and Urban Development requires such Consortia to be

formally re-designated every three years. The Mayor must execute the agreement re-designating the City of Asheville as a member of the Consortium for another three year period.

This resolution supports City Council's Strategic Plan in the area of affordable housing. Renewing the Joint Cooperation agreement with the Asheville Region Housing Consortium will continue the City of Asheville's efforts to offer a standard of living that is affordable and attainable for people of all income levels, life stages and abilities."

Pros:

- The City of Asheville will continue to receive approximately \$1.4 million in HOME Partnership Act funds that directly support affordable housing projects.
- The City of Asheville will maintain its status of lead entity for an additional three years in the Asheville Regional Housing Consortium continuing a joint cooperation with local municipalities avoiding a duplication in effort and promoting a more effective delivery of services.

Con:

- There are no cons to renewing this Agreement.

Participation in the Asheville Regional Housing Consortium will allow the City of Asheville continued access to approximately \$1.4 million in funds that directly support affordable housing projects.

City staff recommends the Mayor support the continuation of participation in the Asheville Regional Housing Consortium for a further three year period by executing the Recertification Agreement.

#### **RESOLUTION BOOK NO. 33 – PAGE 12**

##### **F. RESOLUTION NO. 10-96 - RESOLUTION AMENDING THE 2010 CITY COUNCIL MEETING SCHEDULE TO BEGIN THE MAY 11, 2010, FORMAL CITY COUNCIL MEETING AT 4:00 P.M.**

In response to Councilman Bothwell, Economic Development and Civic Center Director Sam Powers explained that on May 11 there is an opportunity to showcase the Civic Center in full function. He said that the Civic Center Commission will be sending out an invitation to various elected officials to a reception (with sponsors underwriting the cost of the event) to observe the economic impact that a sold-out concert has on the downtown area on a Tuesday night.

#### **RESOLUTION BOOK NO. 33 – PAGE 13**

##### **G. RESOLUTION NO. 10-97 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL DOCUMENTS RELEASING COMMUNITY ACTION OPPORTUNITIES FROM THE DEED OF TRUST AND PROMISSORY NOTE FOR PROPERTY LOCATED AT 25 GASTON STREET UPON COMPLETION OF THE REID CENTER ANNEX ROOF REPLACEMENT**

Summary: The consideration of a resolution authorizing the City Manager to execute any and all documents that will release Community Action Opportunities (formerly known as Opportunity Corporation of Madison-Buncombe Counties) (herein "CAO") from the Deed of Trust and Promissory Note for property located at 25 Gaston Street upon CAO's successful completion of the roof replacement of the Reid Center Annex.

By Resolution No. 98-36, City Council authorized the exchange of real property between the City and CAO which involved the real property owned by the City located at 25 Gaston Street in March of 1998. Pursuant to the terms and conditions of the purchase agreement, CAO was to provide: 1) \$10,000 payable at the time of transaction, and 2) a promissory note of \$26,000 consisting of \$10,000 cash plus a donation of building materials in the equivalent of \$16,000 for a foot bridge to span Town Branch as a connector to the future Town Branch Greenway. As part of that exchange, CAO executed a Promissory Note and a Deed of Trust against the property, recorded in Deed Book 2010 Page 579, in order to secure the payments to be made to the City. CAO fulfilled the cash payment totaling \$20,000 but has not fulfilled the donation of \$16,000 in building materials since the Town Branch Greenway has not been constructed. The greenway corridor was reconfigured and the foot bridge is no longer needed.

CAO leases the Reid Center Annex from the City in which it operates the Lonnie Burton Head Start Center. The annex is located at 133 Livingston Street adjacent to the 25 Gaston Street property. The roof on the center has outlived its useful life and leaks during rain events causing interior building damage.

CAO proposes utilize the value of the \$16,000 in building materials stated in the promissory note and Deed of Trust and Promissory Note and apply it to the roof replacement cost of the Reid Annex. CAO will use the \$16,000 value plus a grant they will receive from the American Recovery Reinvestment Act to pay for the Reid Annex roof replacement at no cost to the City.

Once the project is complete, CAO will donate the roof to the City. Upon donation, the City would release CAO from the Deed of Trust and Promissory Note.

The action complies with the City Council 2010-2011 Strategic Plan in that it supports fiscal responsibility of exploring alternatives for enhancing the city's long-term financial commitment to master plan implementation, infrastructure maintenance, capital improvements, and public facilities. The action further complies with the Parks, Recreation, Cultural Arts & Greenways Master Plan in that it increases department resources with alternative funding sources ensuring a high level of service in parks and facilities by addressing capital maintenance of existing parks and facilities to meet community standards.

Pros:

- Provide a funding source to support capital improvement to the Reid Annex, a city-owned building.
- Supports the standards of maintenance and capital improvement to meet community expectations.

Con:

- None

The expenditure for the roof replacement will be fully funded by CAO and with no expense to the City; thus, there is no net fiscal impact to the City's operating or capital improvement budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute any and all documents that will release CAO from the Deed of Trust and Promissory Note for property located at 25 Gaston Street, upon CAO's successful completion of the roof replacement of the Reid Center Annex.

**RESOLUTION BOOK NO. 33 – PAGE 14**

**H. ORDINANCE NO. 3838 - BUDGET AMENDMENT TO COVER THE COST OF SNOW STORMS**

Summary: The consideration of a budget ordinance amendment, in the amount of \$295,020, from Fund Balance to cover the cost of snow storms.

During the period December, 2009 to the end of February, 2010 the City of Asheville experienced higher than expected snow fall and prolonged freezing temperatures. We received 29.4 inches of snow whereas the median snowfall for Asheville is 13.3 inches.

During the budget process we estimate winter event costs based on the median snowfall and what we have experienced the past few years. During the winter storms for 2009 – 2010 budget estimates were over expended in order to pay overtime, purchase salt and sand, and repair and fuel vehicles. Funds were transferred from accounts which normally would be utilized for repairing and maintaining infrastructure needs such as concrete curb, concrete sidewalks and paving etc. Without reimbursement to these affected accounts, further detrimental effects will occur to our infrastructure.

The winter storm from December 18 – 23, 2009 was declared a disaster under declaration number FEMA 1871 DR NC. Staff have completed consultations and calculations with FEMA field staff and arrived at a total of \$368,035.62. There are additional checks and balances FEMA is required to perform, before approving, however, there usually isn't much difference if any to the initial totaled submitted. In an ideal situation the FEMA funds would offset the additional expenditures if received immediately, unfortunately, the funds probably will be received the latter part of the current fiscal year or the beginning of the next fiscal year. The reimbursement time frame will not allow planned repairs and maintenance to our infrastructure in our current fiscal year. Allowing a budget amendment utilizing fund balance will allow maintenance and repairs to continue in a timely manner, with the end result fund balance will be reimbursed when FEMA funds are received.

#### Table of Costs

	<b>Budget</b>	<b>Actual</b>	<b>Estimate</b>	<b>Total</b>
Material	\$70,000	\$191,037		(\$121,037)
Overtime	\$46,577	\$94,890		(\$48,313)
Fleet	\$41,000	\$117,687	\$17,000	(\$93,867)
Tip Fees	\$7,917	\$22,265		(\$14,348)
Other			\$17,455	(\$17,455)
<b>Totals</b>	<b>\$165,494</b>	<b>\$428,391</b>	<b>\$34,455</b>	<b>(\$295,020)</b>

This action complies with the City Council Strategic Operating Plan, Fiscal Responsibility sustaining meaningful performance levels for programs and services.

#### Pros:

- Maintenance and repair of infrastructure will be maintained at initial budget levels allowing for repair and maintenance needs.
- FEMA funds received will offset the transfer of funds from fund balance.

#### Cons:

- Without transfer of funds to the identified accounts infrastructure will further deteriorate.
- Fund balance is temporarily reduced \$295,020.

Fund balance is temporarily reduced by \$295,020 but will be replenished when FEMA funds are received.

City staff recommends City Council adopt the budget amendment to appropriate fund accounts.

Administrator of Public Works Services Richard Grant responded to Mayor Bellamy when she asked about state and federal reimbursements.

**ORDINANCE BOOK NO. 26 – PAGE**

**I. ORDINANCE NO. 3839 - BUDGET AMENDMENT TO SUPPORT RECREATION PROGRAMS**

Summary: The consideration of a budget amendment, in the amount of \$10,543, from a contribution from the Asheville Parks and Greenways Foundation, to support recreation programs.

The City of Asheville in the Parks, Recreation & Cultural Arts Department received a contribution of \$10,543 from the Asheville Parks and Greenways Foundation. These funds flow to the designated programs at the request of the donors. These funds will go to support programming in the following areas:

\$2,726 to support general programming at the Aston Park Tennis Center.

\$7,817 to support general programming in the Recreation Division.

This action complies with the Parks, Recreation, Cultural Arts & Greenway Master Plan in that it makes use of diverse funding sources for successful implementation in the delivery of parks, recreation and cultural art services.

Pro:

- Provide funds to support parks, recreation and cultural arts programming enhancements

Con:

- None

The City's Fiscal Year 2009/10 budget for Parks, Recreation and Cultural Arts will increase by \$10,543. This increase is funded by \$10,543 in contributions from the Asheville Parks and Greenway Foundation. Thus, there is no net fiscal impact to the City's budget.

Staff recommends City Council to adopt a budget amendment authorizing the City Manager to increase the Parks, Recreation & Cultural Arts budget by \$10,543 consisting of \$2,726 for Aston Park Tennis Center, and \$7,817 for the Recreation Division.

**ORDINANCE BOOK NO. 26 – PAGE**

**J. MOTION SETTING A PUBLIC HEARING ON APRIL 27, 2010, TO CONSIDER AN INSTALLMENT PURCHASE CONTRACT FOR CONSTRUCTION OF THE LIVINGSTON COMMUNITY CENTER, SWIMMING POOL IMPROVEMENTS AND THE ACQUISITION OF LARGE VEHICLES**

This item was deleted from the Consent Agenda for consideration.

Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.



Councilwoman Manheimer moved for the adoption of the Consent Agenda, with a letter being sent to our federal legislators regarding Asheville's designation of an intercity route. This motion was seconded by Councilman Davis and carried unanimously.

**ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES**

**D. RESOLUTION NO. 10-92 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE DOWNTOWN AFTER 5 EVENTS ON MAY 21, JUNE 18, JULY 16, AUGUST 20 AND SEPTEMBER 17, 2010**

**RESOLUTION NO. 10-93 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE ALL GO WEST FESTIVAL ON APRIL 24, 2010**

**RESOLUTION NO. 10-94 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND UNFORTIFIED WINE AT THE ASHEVILLE EARTH DAY EVENT ON APRIL 17, 2010**

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the (1) "Downtown After 5" outdoor special events; (2) All Go West Festival on April 24, 2010; and (3) Asheville Earth Day event on April 17, 2010.

- The Asheville Downtown Association has requested through the City of Asheville Development Service Center that City Council permit them to serve beer and/or unfortified wine at "Downtown After 5" and allow for consumption at this event.

"Downtown After 5" will be held on Friday, May 21, June 18, July 16, August 20 and September 17, 2010, from 5:00 p.m. to 9:00 p.m. within the boundaries of the 100 block of Lexington Avenue, as per the event area limits referenced on the accompanying site map.

- Dogwood Alliance in conjunction with Yellow Dog Entertainment, LLC has requested through the City of Asheville Development Service Center that City Council permit them to serve beer and/or unfortified wine at the All Go West Festival and allow for consumption at this event.

The All Go West Festival will be held on Saturday, April 24, 2010 from 12:00 p.m. to 10:00 p.m. within the boundaries of Westwood Place, Waynesville Ave. & Michigan Ave. and will be free and open to the public.

- Lake Eden Arts festival in conjunction with Mountain Roots Management has requested through the City of Asheville Development Service Center that City Council permit them to serve beer and/or unfortified wine at "Asheville Earth Day" and allow for consumption at this event.

"Asheville Earth Day" will be held on Saturday, April 17, 2010 from 11:00 a.m. to 10:00 p.m. within the boundaries of Martin Luther King Jr. Park and will be free and open to the public.

These actions have no direct connection with the City of Asheville Strategic Operating Plan.

Pro:

- Allows fundraising opportunities for the Asheville Downtown Association, the Dogwood Alliance and the Lake Eden Arts Festival

Con:

- Potential for public safety issues

For the "Downtown After 5" events, the fiscal impact will be overtime pay for Asheville Police officers per City co-sponsorship agreement. There is no fiscal impact to the All Go West Festival or the Asheville Earth Day festival.

City staff recommends City Council adopt the resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the "Downtown After 5" events, the All Go West Festival and the Asheville Earth Day Festival.

Vice-Mayor Newman moved for the adoption of Resolution Nos. 10-92, 10-93, and 10-94. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Mayor Bellamy voting "no."

**RESOLUTION NO. 10-92 - RESOLUTION BOOK NO. 33 – PAGE 3**  
**RESOLUTION NO. 10-93 - RESOLUTION BOOK NO. 33 – PAGE 6**  
**RESOLUTION NO. 10-94 - RESOLUTION BOOK NO. 33 – PAGE 9**

### **III. PRESENTATIONS & REPORTS:**

#### **A. CIVIC CENTER COMMISSION UPDATE**

Mayor Bellamy was saddened to note that long-time Civic Center employee Freddie Chapman has passed away unexpectedly earlier this week. Mr. Chapman was a great employee and a great person, and he will be missed by his co-workers and family. She asked everyone to keep Mr. Chapman's family in their thoughts. On behalf of City Council, she expressed Council's deepest sympathy to Mr. Chapman's family.

Chairman Mike Burke introduced the Commission members of John West, George Keller, Elizabeth Jones, John Broadbooks, J.L. Thompson and Joel Storrow.

The Commission aligns with Council's strategic plan under financial sustainability; facility improvements; event quality and diversity; community relations; and job development.

Using a chart, he showed the 2009 venue usage along with the breakdown of the diversity in the 2009 events.

He highlighted the partnership with Bele Chere for facility usage. Their image enhancement supports the strategic plan and targets local and regional media.

The Go Green Initiative includes (1) biodegradable cups; (2) increased recycling of plastics; (3) increased recycling of containers; and (4) grant application for pilot project between Civic Center/Sustainability Office.

Regarding the Thomas Wolfe Auditorium, we are building relationships with the Asheville Area Center for the Performing Arts.

Regarding the Capital Improvement Program (CIP), (1) The Commission was instrumental in launching the much needed roof project which is expected to be completed in May 2010; and (2) Civic Center CIP is critical to continuing capital improvements that are required to obtain high attendance, high visibility, events, etc.

Cooperative actions include (1) Working with the City Manager, the Commission helped define the qualifications to be used when evaluating applicants for the Civic Center's Director position; and (2) In conjunction with the Civic Center staff, the Commission assisted with prioritizing items for future Capital Improvement Plan requests; customer input was gathered through patron facility questionnaires.

Social media includes (1) Additional marketing and public relations as per strategic plan; (2) Social media is a key platform; and (3) Special offers for Facebook fans.

Regarding economic impact, regional events draw 50% from  $\geq 75$  miles. Local events create impact for restaurants and retail. A key event was the Avett Brothers Concert on New Year's Eve.

Significant future opportunities include (1) Southern Conference bid; (2) possible future Big South bid; and (3) increased programming from promoters.

The future is bright for the Civic Center.

In response to Vice-Mayor Newman, Mr. Burke explained the Southern Conference bid and said that short-term we need locker rooms, scoreboards, electrical and seating in the arena.

Councilman Davis said that they are developing a coalition of different partners for the Southern Conference bid and will be bringing it forward to Council soon.

On behalf of City Council, Mayor Bellamy thanked Mr. Burke and the entire Commission for their efforts on the Commission.

## **B. ECONOMIC STIMULUS PACKAGE UPDATE**

### **ORDINANCE NO. 3840 - BUDGET AMENDMENT TO SET UP PROJECT BUDGETS FOR AN ARRA-FUNDED COMMUNITY DEVELOPMENT BLOCK GRANT AND A COMMUNITY DEVELOPMENT BLOCK GRANT FOR THE CONSTRUCTION OF SIDEWALK ON NORTH LOUISIANA AVENUE**

American Recovery & Reinvestment Project Manager Brenda Mills updated Council on the following applications for the economic stimulus package.

She said that as part of City staff's recurring American Recovery & Reinvestment (ARRA) staff is seeking approval of two technical budget amendments, in the amount of \$123,648, for an ARRA-funded Community Development Block Grant and a regular Community Development Block Grant, in the amount of \$117,000, for construction of sidewalk on North Louisiana Avenue.

The grant of CDBG-R and CDBG funds for these projects was approved by City Council in May 2009. Because the City is considered a sub-recipient of these CDBG grants, a technical budget amendment is needed to set up these project budgets so that the city can spend the granted funds.

The City has received funding from an ARRA-funded Community Development Block Grant (CDBG-R) and a regular Community Development Block Grant Department for the N. Louisiana sidewalk project. The portion of the project using the CDBG-R funds is ready for construction. City Public Works crews will install sidewalk, curb and gutter, and underground drainage structures along the west side of N. Louisiana Avenue from Patton Avenue north to the cemetery entrance. The next phase of this project will extend the sidewalk to the existing stretch of sidewalk at 370 N. Louisiana Avenue. That phase is not yet ready for construction. Funding to

continue the sidewalk north to the city limits has not yet been identified. These sidewalk segments are part of a larger cooperative project to eventually bring sidewalk from Patton Avenue to Mosswood Road near Emma Elementary School. City Council has already approved the budget amendments for the three other grants that have been awarded to the city on behalf of the larger project.

This project supports the City Council's strategic plan sustainability goal of fully leveraging funding from the State and other funding sources for regional transportation improvements.

The grant will cover 100% of the costs of the N. Louisiana Avenue Sidewalk Project, so there is no impact on the City's current General Fund budget. Additional funding is being sought to continue the sidewalk north to the city limits as this has not yet been identified.

Pros:

- Improves city transportation facilities by building sidewalk and by improving pedestrian connections to transit routes.
- Provides long term investment in the City's infrastructure.

Con:

- None

City staff recommends City Council adopt these technical budget amendments, in the amount of \$123,648, for an ARRA-funded Community Development Block Grant and a regular Community Development Block Grant, in the amount of \$117,000, for construction of sidewalk on North Louisiana Avenue.

In response to Vice-Mayor Newman, Mayor Bellamy noted that the sidewalk would be from Patton Avenue all the way up to Emma Elementary and a little beyond that into the residential area – noting the different sources of funding.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Manheimer moved for the adoption of Ordinance No. 3840. This motion was seconded by Councilman Bothwell and carried unanimously.

#### **ORDINANCE BOOK NO. 26 – PAGE**

#### **IV. PUBLIC HEARINGS:**

##### **A. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF 97 UNDERWOOD DRIVE**

##### **ORDINANCE NO. 3841 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE BY ANNEXING ONE LOT AT 97 UNDERWOOD DRIVE**

Mayor Bellamy opened the public hearing at 6:03 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance extending the corporate limits of the City of Asheville by annexing one lot at 97 Underwood Drive. This public hearing was advertised on April 2, 2010.

Larry Holbert and Ronnie Gray (L & R Rentals) have petitioned the City of Asheville for the annexation of one (1) lot located at 97 Underwood Road in South Buncombe County containing a total of approximately 1.96 acres. The area is not contiguous to the primary corporate limits but is contiguous to the satellite corporate area at the Asheville Regional Airport. The area is subject to the standards for annexation of noncontiguous areas contained in NCGS 160A-58.1.

The petition as submitted was for the annexation of a much larger parcel at both 97 and 99 Underwood Road (8.95 acres). The petitioner has since subdivided the property and desires to have only the 1.96 acre portion containing 97 Underwood Road annexed. The parcel meets all applicable requirements for annexation of noncontiguous areas contained in the North Carolina General Statutes.

Pursuant to N.C. Gen. Stat. sec. 160A-58.2, a public hearing must be held prior to adopting any ordinance for voluntary annexation. If City Council decides to proceed with this request, it is proposed that the annexation become effective on April 30, 2010.

Pros:

- Provides for the orderly growth of the City and the tax base through the acceptance of appropriate areas into the corporate limits where owners desire annexation.
- Complies with the 2025 Plan in that it supports the strategy of promoting voluntary annexation of developing areas and meeting the goal of continued use of the urban development tool of annexation in providing for the orderly growth of the City.

Con:

- Marginal costs for rural fire department debt service and calls for service/patrol.

As the property was recently subdivided there is no tax value assigned to the property. An estimate taking a proportionate value of the previously unsubdivided property projects a value of \$296,584. Such a valuation would generate approximately \$1,246 in ad valorem tax revenue annually. The required debt service payment (one time payment) to the Skyland Fire Department is estimated to be \$280.95. Any other marginal costs would come from calls for service or patrol.

City staff recommends that City Council adopt the ordinance annexing the property at 97 Underwood Road.

Ms. Marcel Andrews, representing the property owners, looked forward to being a part of the City of Asheville.

Mayor Bellamy closed the public hearing at 6:06 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Russell moved for the adoption of Ordinance No. 3841. This motion was seconded by Councilman Bothwell and carried unanimously.

**ORDINANCE BOOK NO. 26 – PAGE**

**B. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF CITY-OWNED PROPERTY AT 411 DEAVERVIEW ROAD**

**ORDINANCE NO. 3842 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE BY ANNEXING A CONTIGUOUS AREA AT 411 DEAVERVIEW ROAD**

Mayor Bellamy opened the public hearing at 6:07 p.m.

Urban Planner Julia Cogburn said that this is the consideration of an ordinance for annexation of City-owned property at 411 Deaverview Road. This public hearing was advertised on April 2, 2010.

In 2009, the City of Asheville obtained two (2) parcels at foreclosure auction. One (1) of the parcels had been previously annexed into the City as a requirement for obtaining Housing Trust Fund loans for the Villas at Cedar Hill development. As part of the financing, the senior lender, Blue Ridge Savings Bank, secured the other parcel (PIN 9628274164) at 411 Deaverview Road as collateral. When the developer defaulted on the senior lien, the bank put the parcels up for sale at foreclosure auction. The City bid on the parcels to protect its investment in the property and was able to purchase the land at below market value. It is the intent of City staff to sell the properties and use the proceeds to repay the Housing Trust Funds advanced on the property. The collateral parcel is not yet a part of the City. The City proposes to annex this parcel to allow any future development on the site to contribute to the City tax base.

The parcel is 6.38 acres in size and has a tax value of \$162,000. It contains a vacant residence.

Pursuant to N. C. Gen. Stat. sec. 160A-31, a public hearing must be held prior to adopting an ordinance annexing City-owned property. If City Council decides to proceed with this request, it is proposed that the annexation become effective on May 31, 2010.

Pros:

- Provides for an urban level of service for areas adjacent to the existing city limits.
- Brings in a parcel currently in City of Asheville ownership avoiding later involuntary annexation.

Con:

- Marginal costs for rural fire department debt service.

Because the property is owned by the City, there would be no immediate ad valorem tax revenue generated. Once sold, the property would contribute to the tax base at an amount determined by the development of the property. The required debt service payment to the West Buncombe Fire Department is estimated to be \$150.00, which must be paid within forty-five (45) days of the annexation effective date. This is a one-time payment.

City staff recommends that City Council adopt the ordinance annexing the property at 411 Deaverview Road.

Mayor Bellamy closed the public hearing at 6:08 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved for the adoption of Ordinance No. 3842. This motion was seconded by Councilman Russell and carried unanimously.

## **ORDINANCE BOOK NO. 26 – PAGE**

### **V. UNFINISHED BUSINESS:**

#### **A. MOTION APPROVING THE FEE WAIVER REQUEST FOR PACK SQUARE CONSERVANCY FOR THEIR EVENT ON APRIL 17, 2010**

Director of Parks, Recreation and Cultural Arts Roderick Simmons said that this is the consideration of a fee waiver for use of Reuter Terrace in Pack Square Park by the Pack Square Conservancy (PSC) to conduct the Painting to Percussion event.

At its meeting on April 12, 2010, the Recreation Board considered a joint partnership agreement between the City, County of Buncombe and PSC for the maintenance and operations of the Pack Square Park. The partnership agreement will make the park available to PSC for its events, activities and programs, and waive all facility rental and city permit fees associated with the use of the park.

The Recreation Board recommended considering the partnership agreement at a later date once it can obtain more information and be better prepared to make such recommendation. In lieu of the agreement, PSC wishes to request a fee waiver. The fee amount surpasses the fee waiver authority of the Recreation Board.

PSC will conduct the Painting to Percussion at Reuter Terrace in Pack Square Park on April 17, 2010, at 10:00 a.m. to 2:00 p.m., and requests a fee waiver of City fees associated with the park use totaling \$1,378 (\$1,300 facility rental fee and \$78 building safety inspection fee).

PSC is a non-profit 501 (c) 3 organization that resides within the Asheville city limits whose mission is to create a vibrant town square and public park providing citizens and visitors to the region with a social, economic and cultural center that celebrates the area's unique character.

In return, PSC leads the process and funding to construct Pack Square Park and will donate the park to the City, and continue to create new programming to keep the park vibrant and active for citizens and visitors.

Pro:

- Facility rental fee waiver request meets all the required criteria associated with the recreation facility rental fee adjustment policy.

Con:

- Reduce the annual revenue budget for City facility rental fees and permits.

The lost revenue for facility rentals and permits is \$1,378.

Staff recommends City Council approve the PSC request to waive \$1,378 in facility rental and building safety inspection fees for the use of Reuter Terrace at Pack Square Park on April 17, 2010, at 10:00 a.m. to 2:00 p.m. for the Painting to Percussion event.

Mr. Gary Giniat, Executive Director of Pack Square Conservancy, said that the entire Park is open and urged Council to waive their facility rental and building safety inspection fees.

In response to Councilman Russell, Mr. Simmons said that the joint partnership agreement (including fee waivers) will be coming to Council in the near future for action.

Councilman Davis moved to approve the fee waiver request of \$1,378 for Pack Square Conservancy for their event on April 17, 2010. This motion was seconded by Councilman Smith and carried unanimously.

**B. RESOLUTION NO. 10-98 - RESOLUTION ADOPTING THE CITY OF ASHEVILLE'S LEGISLATIVE PROGRAM FOR THE 2010 "SHORT SESSION" OF THE NORTH CAROLINA GENERAL ASSEMBLY**

City Attorney Oast said that this is the consideration of a resolution establishing the City of Asheville's Legislative Agenda for the 2010 Session of the North Carolina General Assembly.

On March 9, a presentation was made to Council with some suggestions for legislative consideration in the 2010 Session of the North Carolina General Assembly. That report also contained an explanation of some of the limitations on matters that could be considered in the 2010 "short session."

Since that meeting, further information has been assembled with respect to some issues of local interest, and we have obtained information from the League of Municipalities and other cities regarding their legislative priorities and agendas. In addition, several Council members have asked about possibilities for legislative action.

We obtained a package from the League of Municipalities containing the League's "Advocacy Agenda" and "Core Principles" for 2009-2010. That package also contained the legislative agendas for 17 North Carolina municipalities for 2009-10. These local agendas did not follow a standard format. Most of them contained both federal and State legislative requests. A substantial portion of the federal requests were for appropriations or earmarks for specific projects (e.g., road improvements, sewer outfall). Some State legislative agenda items were addressed to issues particular to the requesting municipality (e.g., de-annexation, fire truck purchase). Most if not all of the local legislative agendas stated positions on State legislative matters, such as annexation and collective bargaining; in some cases, local legislative agendas adopted or endorsed the League's agenda in whole.

Drawing on the information and sources referenced above, a proposed legislative agenda has been developed that addresses local issues, as well as matters of state-wide concern. Because of the limitations on local legislation in the short session, the items as to which local legislation is requested are those that have been discussed before (Woodfin), or where clarification of existing law may be needed (energy efficiency, intranet).

Some Council members have suggested that Council seek or support legislation as to other matters, such as public financing of local elections. Depending on Council's direction, these items can be added to the resolution currently before Council, or may be the subject of a later resolution after appropriate research. Finally, the Chamber of Commerce will not adopt its legislative agenda until May, and Council may wish to express its position as to some items on that agenda in any consideration of matters of general or regional concern.

These legislative requests are consistent with multiple objectives of the City's Strategic Operating Plan, including (a) working with other local governments to address service delivery and public safety issues, (b) supporting green building and energy conservation, (c) working cooperatively with legislators to implement practical water system management and voluntary annexation policies.

City Attorney Oast then reviewed the following local issues:

1. Introduce a local bill to reconfigure the boundaries of Asheville and Woodfin to:
  - a) Eliminate pockets of unincorporated area between the two municipalities;
  - b) Resolve jurisdictional confusion in the area of UNC-A (including land set aside for future growth), and Broadway/I-26/River Road interchange;
  - c) Authorize agreements regarding service delivery to affected private properties.

**It was the consensus of Council to include this in the 2010 Session.**

2. Introduce a local bill or support general legislation to clarify status of local intranet facilities in connection with the Video Service Competition Act of 2006.



**It was the consensus of Council to include this in the 2010 Session.**

3. Clarify recent legislation regarding financing of energy efficiency improvements [note: staff is currently drafting the program design, which includes recommendations for financing, administration, and project eligibility. This program is scheduled for Council consideration for May 25. Other municipalities are involved in similar efforts, and legislation may be requested to clarify local authority.]

City Attorney Oast responded to questions raised by Mayor Bellamy regarding whether this includes commercial property and clarity on the disclosure of funding.

**It was the consensus of Council to include this in the 2010 Session.**

4. Introduce a local bill providing for annexation agreements for certain developments that receive city water service.

**It was the consensus of Council to include this in the 2010 Session.**

5. Support of passenger rail service to Western North Carolina (which resolution was adopted by City Council on March 23, 2010).

**It was the consensus of Council to include this in the 2010 Session.**

He said that Councilman Bothwell has suggested that Council seek or support legislation as to public financing of local elections. With Council's direction, he would be happy to research that, noting that it can be added to the resolution currently before Council, or may be the subject of a later resolution after appropriate research.

He added a few items of State-wide interest, such as annexation and municipal incorporation reform where the League of Municipalities is working to represent municipal interests, and has drafted the resolution to state that Council supports the League's position on these items. However, the State-wide issues have not been the subject of much consideration by Council, and are not subject to the same time constraints or other limitations as local bills. Also, there are some issues of State-wide concern that are not reflected in the League of Municipalities' material, such as collective bargaining by public employees, regulation of electronic gaming, and preservation of municipal revenues. Accordingly, Council may wish to defer consideration of some or all of these items, or add to them. Those State-wide issues are as follows:

1. Support League of Municipalities 2009-10 advocacy agenda as to the following issues:
  - a) Annexation
  - b) Air Quality
  - c) Water Resources
  - d) Municipal Incorporation
  - e) Infrastructure Financing
  - f) Energy Sustainability
  - g) Local of Alcohol Establishments
  - h) Sanitary Sewer Overflows
  - i) Stormwater Fees
  - j) Electronic Notices

An issue of State-wide concern is collective bargaining by public employees. It would require local governments to recognize collective bargaining with respect to public safety employees. North Carolina, by law, prohibits collective bargaining with public employees. He understands this new law would require the recognition of labor unions and require collective

bargaining for police, fire and emergency personnel. With Council's direction, he would research this further. If there is any interest in addressing this legislatively, he felt contact should be made to the federal congress and senate

Mayor Bellamy said that the League of Municipalities is opposed to the bill (H.R. 413), not on the basis of a position on collective bargaining, but on the basis that such employment policy is best made at the state and local level. The League is asking for the City's position on this bill and our thoughts on the League joining in on a case saying that the federal government may have overstepped its boundary if the bill passes. Communications from the League request action with 48 hours. She felt it would be appropriate for Council to direct the City Attorney to research this further on how it will have big implications on how we do business in the City of Asheville and the future of our organization.

After discussion, it was the consensus of Council to (1) instruct City Attorney Oast to provide Council with additional information on the bill regarding the legislation of collective bargaining by public employee; and (2) instruct the City Manager to provide information on the impact on our organization if the bill passes.

Councilman Bothwell explained his request for Council's support of a bill that has already passed the state house which would permit a municipality to consider public financing of local elections. It does not commit to anything, but just gives cities the opportunity to consider public financing of local elections.

After discussion, it was the consensus of Council to instruct City Attorney Oast to provide Council with additional information on the bill permitting a municipality to consider public financing of local elections.

After discussion, it was the consensus of Council that while the League is a great advocate for cities, City Council could not endorse all issues in their 2009-10 advocacy agenda and requested the City Attorney to provide Council with more information on their various issues.

When Mayor Bellamy brought up the non-consensual towing legislation that was introduced last year, it was the consensus of Council to instruct the City Attorney to investigate if that legislation needs to remain active or if the bill is no longer necessary.

At the request of Vice-Mayor Newman, it was the consensus of Council to instruct the City Attorney to a bill that would create a prohibition on local decision-making regarding use of wind energy within local jurisdictions in the western half of the State.

It was the consensus of Council to have Mayor Bellamy (and two other Council members) meet with Senator Nesbitt and Representative Goforth regarding a local bill providing for annexation agreements for certain developments that receive city water service.

#### **RESOLUTION BOOK NO. 33 – PAGE 15**

#### **Closed Session**

Mayor Bellamy announced a 20-minute recess at which time Council will conduct a closed session.

At 6:57 p.m., Councilman Smith moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including potential litigation The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property

located on Shelburne and Sand Hill Roads, and known as the Waller Tract, and property located on Swannanoa River Road near the intersection of Fairview Road, by purchase, option, exchange or lease. The property is Villas at Cedar Hill. The statutory authorization is contained in G.S. 143-318.11(a)(5); and (3) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:27 p.m., Councilman Russell moved to come out of closed session and return to the formal meeting. This motion was seconded by Councilman Smith and carried unanimously.

## **VI. NEW BUSINESS:**

### **A. ORDINANCE NO. 3843 - ORDINANCE ADOPTING FISCAL YEAR 2010-11 FEES & CHARGES, EFFECTIVE JULY 1, 2010**

Budget Director Tony McDowell said that this is the consideration of an ordinance approve proposed fee adjustments for the FY 2010-2011 budget.

The proposed FY 2010-11 fee adjustments have been reviewed by the Council Finance Committee. If the full Council approves the Finance Committee's fee recommendations, it will add an additional \$218,000 in revenue to the FY 2010-11 General Fund budget.

In addition to the General Fund fee adjustments, the Finance Committee also reviewed proposed increases to the prices of the annual pass, monthly pass, and eleven (11) ticket books in the Transit Fund. These price increases were recommended by the Transit Master Plan and would bring in approximately \$47,000 in additional revenue.

Finally, staff is requesting that Council approve the FY 2010-11 Water Resources Fees. Staff initially proposed a 9.0% fee increase for the water utility charge and the capital improvement fee. Based on feedback received from Council, staff developed alternatives to the 9.0% increase that was initially proposed. Staff is now recommending that Council adopt a 5% rate increase for Capital Improvement Fee and Consumption charges for FY 2010-11. This rate increase will allow for a 1% transfer of Water Resources revenue to the General Fund per the Sullivan Act Amendment. This 1% transfer will provide approximately \$341,000 in revenue for water-related infrastructure projects in FY 2010-11. He provided Council with a list of possible projects that could be funded with Sullivan Act monies over the next five years if the 5% water rates increases are continued in future years. This recommendation is consistent with the "Alternative 1" water rate structure that was presented to Council at its budget worksession on March 23, 2010.

Staff is requesting that Council take action tonight on the fee recommendations so that the additional revenue from the fee adjustments can be included in the Manager's Proposed Budget, which is scheduled for presentation to Council on May 11th. The additional time will also allow staff to begin communicating fee changes to citizens, customers and stakeholders so they are aware of changes that will be implemented with the adoption of the budget. Every department will be responsible for developing and implementing a communications plan to let citizens know about fee changes.

As noted above, the General Fund fee changes recommended by the Finance Committee would produce approximately \$218,000 in additional revenue, which will be used to help close the projected budget gap in FY 2010-11.

Staff recommends that Council adopt the Finance Committee recommendations regarding fees and charges, including recommendations for transit passes and water rates.

Councilman Russell, Chair of the Finance Committee, felt that some of the fees are practical changes and fees are a good way to tax the end users. However, as the Finance Committee discussion on the fees became more complicated, he pulled back his support. He could not support any fee increases.

Vice-Mayor Newman questioned if Council votes on these fees now, will there be opportunity for additional discussion since the budget won't be finally adopted until June. Mayor Bellamy felt that staff needs approval of these fees as they need to notify the community of the changes prior to July 1. Councilman Russell also noted that by Council endorsing these fee changes, it will allow the City Manager to bring Council a balanced budget. If the fees are not endorsed, staff will need to find another \$218,000 for the General Fund somewhere else.

Councilman Bothwell moved to approve the General Fund fee adjustments (including the Transit Fund fee adjustments). This motion was seconded by Councilman Smith.

Mr. Fred English urged Council to save wherever possible and then reach out to the City taxpayers.

Councilwoman Manheimer said that departments looked at what their true overhead costs were for providing specific services and in many cases they found that they were not recovering the true cost. That was the concept in looking at these fees – cost recovery. In that regard, she supported the fee increases.

Vice-Mayor Newman clarified that the motion does not address the business license fee.

Mayor Bellamy did not support the motion as most of them affect the building industry which is being hit the hardest during this economic climate. Regarding transit fee increase, 70% of the riders have no other means of transportation. Even though the fees are minor, for a person barely making it, they will feel the increase.

Each Council member voiced their opinion on why they could or could not support the fee increases.

The motion made by Councilman Bothwell and seconded by Councilman Smith carried on a 5-2 vote, with Mayor Bellamy and Councilman Russell voting "no."

Councilwoman Manheimer moved to approve the 5% water consumption fee. This motion was seconded by Councilman Davis.

Councilman Russell understood the need for a consistent stream of revenue for improvements; however, we just did \$40 Million of improvements over the last 4-5 years. Since our estimates on contracts are coming in lower than expected, he felt we should work with those cost reductions. He could not support the motion to increase the water consumption fee.

Mayor Bellamy supported the motion because when we issued the \$40 Million bonds, we told the Local Government Commission that we had a plan to repay back those dollars. We need a dedicated source to pay back the bonds and make the improvements necessary to the system.

Councilman Bothwell hoped that Council will look at a graduated rate which will encourage further water conservation.

Councilwoman Manheimer explained how Asheville is managing their water system in a thoughtful way. As a member of City Council, she felt an obligation to make sure we have a balanced budget and that we are not running our water system into the ground.

Councilwoman Manheimer felt to not support the motion on raising fees places an unfair burden on the rest of Council as they must do the responsible thing and pass a balanced budget for the City. It is not a luxury to vote no for the rate increases.

The motion made by Councilwoman Manheimer and seconded by Councilman Davis carried on a 6-1 vote, with Councilman Russell voting "no."

Councilwoman Manheimer moved to approve the 5% water Capital Improvement Plan fee. This motion was seconded by Councilman Bothwell.

In response to Mayor Bellamy, Water Resources Director Steve Shoaf explained that at the March 23 worksession, he presented a 5% increase this year for the consumption charge and a 5% increase for the Capital Improvement Fee, but no further increases in the Capital Improvement fee in subsequent years until the budget is out of balance. This year, in order to generate the revenue we need (due to the loss of large water customers) we included the 5% Capital Improvement Fee.

Councilman Davis could not support the Capital Improvement Fee as he felt it affects the smaller businesses.

Vice-Mayor Newman felt that in the next year we need to look comprehensively at where we are going with this long-term. We have high residential water rates but these are user fees that directly affect the cost of living in this community. He felt it was important to look at the overall rate structure that is as fair to families that live in Asheville and we need to be careful about some of rates where it could affect the employment. He is also encouraged that we will be looking at a rate structure that does encourage conservation.

Councilman Bothwell said that thanks to the Sullivan Acts, water rates are one of the only way we can draw revenue from outside the City limits.

Councilman Smith agreed that we need to re-examine the rate structure with an eye on conservation. Small businesses and medium-size employers will be affected by the rate increase and we need a plan to support them.

Mayor Bellamy could not support the motion. She recalled a different conversation at the March 23 worksession, but requested that going forward, we develop a clear plan to let people know about future rate increase so they are aware that the rates will rise in future years.

In response to Vice-Mayor Newman, City Manager Jackson said that regarding the projects that could be funded with Sullivan Act monies staff will work from the list of projects provided to Council that add up to \$1.9 Million (assuming the rate increase of \$341,000 and the \$1.6 Million already in the budget).

The motion made by Councilwoman Manheimer and seconded by Councilman Bothwell carried on a 4-3 vote, with Mayor Bellamy, Councilman Davis and Councilman Russell voting "no."

Vice-Mayor Newman did not support an increase in business license fees for small businesses or manufacturing; however, he would not be opposed to increasing the fees on some large retail facilities that bring people into Asheville from all of western North Carolina.

#### **ORDINANCE BOOK 26 – PAGE**

- B. RESOLUTION NO. 10-99 – RESOLUTION OF SUPPORT FOR UNIVERSITY OF NORTH CAROLINA SCHOOL OF PHARMACY SATELLITE CAMPUS IN ASHEVILLE, N.C.**

City Manager Jackson said that the University of North Carolina Pharmacy School will develop a satellite campus in Asheville. The program is to accomplish that through a partnership with community and long-standing regional partners including Buncombe County, Economic Development Coalition, University of North Carolina-Asheville, Mission Hospitals, MAHEC (Mountain Area Health Education Center), and WNCHN (Western North Carolina Health Network -- a consortium of 16 western North Carolina hospitals. To accomplish this, in addition to having that mix of partners collaborating in a lot of different ways to make the curriculum feasible involves preparing facilities for what will eventually be a revenue neutral educational degree program. There is a wrap-up program with this to create this school and the 50+ professional jobs associated with that. The wrap-up cost is approximately \$2.5 Million – investing in the science building at UNC-A, creating the classroom and the laboratory space necessary and to provide for the attraction and employment of the start-up costs associated with building the school. Buncombe County has pledged \$600,000 to that \$2.5 Million effort which will be spearheaded by the Chamber of Commerce. Based upon our past participation in this type of job creation, staff recommends City Council authorize the Mayor of the City of Asheville to sign the resolution of support, and to direct the City Manager to include an amount of up to \$100,000 in economic development support funding in the city's 2010-11 budget process if required to help in the initial capital costs for starting the branch campus in the City of Asheville.

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Newman moved for the adoption of Resolution No. 10-99. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Bothwell voting “no.”

## **RESOLUTION BOOK 33 – PAGE 17**

### **C. BOARDS & COMMISSIONS**

The following candidates applied for a position on the Downtown Commission: Rachael Bliss, Robert Winner, David Hitch, Henry Watts, Tony Fraga, Michael Tietz, Rebecca Hecht, Alan Levy, Merry Caplan, Hillary Cole, Luke Perry, Jeremy Gillespie, Eric Rainey, Bill Allison, Terry Meek, Rodney Hardy Porter, Philip Ellis, William Langdon, Jimi Rentz, Woody Kloesel, Joseph Bernard Malki, Jared Breneman, Erin Mosher, David Nutter, Karen Kotiw, Claire Reeder, Susan Griffin and Laurie K. Miller. Out of those candidates, it was the consensus of Council to instruct City Clerk Burleson arrange interview for Rebecca Hecht, Henry Watts, David Nutter, Jimi Rentz and Karen Kotiw.

### **VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:**

Mr. Jeff Meadows alleged that his retirement (as seen in Resolution No. 93-74) has been breached. Mayor Bellamy instructed City Manager Jackson to contact Mr. Meadows regarding his allegations.

Ms. Maria Lomeli-Garcia, Junior at Asheville High School, and Mr. Terrell Muetta, 7<sup>th</sup> grader at A.C. Reynolds Middle School, said they were youth advocates representing Teens Taking Action, which is a peer education program through the Planned Parenthood Health Systems. They said that the month of April is “Sexually Transmitted Infections Awareness Month” and they wanted everyone in the community to understand the risks of unsafe practices and to recognize the dire consequences. They spoke about the importance to raise awareness. Mayor Bellamy said it was troubling to hear the numbers. She thanked the students for increasing Council's awareness and suggested they attend meetings of the Buncombe County School

Board, Asheville City School Board, and Buncombe County Commissioners as they can address the funding necessary to educate our students.

Mr. Fred English spoke about the national debt and the amount every person owes.

Rev. Christopher Chiaromonte spoke about the homeless issue in Asheville and the location of the police sub-station on Haywood Street.

Vice-Mayor Newman invited the public to a town hall meeting in the Public Works Building on Monday, April 19, 2010, from 5:30 p.m. – 7:00 p.m., for a public discussion about the Asheville Energy Independence initiative.

Mayor Bellamy urged the community to support Asheville as Google's Gigabit broadband demonstration network by going to [googleavl.com](http://googleavl.com) to nominate Asheville.

A civil action has been commenced in Federal Court on March 26, 2010, from Cherie C. Byrd v. City of Asheville, Asheville Police Department and Eric Lauffer. The complaint is for discrimination based on sexual harassment. This matter will be handled by an attorney outside the City Attorney's Office through Asheville Claims Corporation.

**VIII. ADJOURNMENT:**

Mayor Bellamy adjourned the meeting at 8:28 p.m.

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CITY CLERK

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MAYOR